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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,556	01/23/2004	Thomas Hinsberger	THIELK-028XX	7554

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BOURQUE & ASSOCIATES, P.A.  
835 HANOVER STREET  
SUITE 303  
MANCHESTER, NH 03104

EXAMINER
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FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/763,556

Applicant(s)

HINSBERGER ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on October 16, 2003. It is noted, however, that applicant has not filed a certified copy of the 103 48 264.4 application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

2. Claims 1-3, 5, 7, 10 and 11 are objected to because of the following informalities:

Claim 1 (line 2) recites "furniture including". It should recite --furniture, the securing device including--.

Claim 1 (line 3) recites "the rear wall". It should recite --a rear wall--.

Claim 1 (line 6) recites "support elements have". It should recite --support elements each have--.

Claim 1 (line 7) recites "contact sides and a through hole". It should recite --contact sides a through hole--.

Claim 1 (line 11) recites "whereby at least one of". It should recite --whereby one of--.

Claim 2 (line 4) recites "strike sides contact sides of the at least one support elements". It should recite --strike sides comprise the contact sides of the support elements--.

Claim 3 (line 3) recites "an outside". It should recite --an outside area--.

Claim 5 (line 2) recites "the at least one support elements". It should recite --the support elements--.

Claim 7 (line 2) recites "have plane outer sides". It should recite --have planar outer sides--.

Claim 7 (line 3) recites "are even with". It should recite --are planar with--.

Claim 10 (line 2) recites "protruding transverse from". It should recite --protruding transversely from--.

Claim 10 (line 3) recites "is even with the second strike side". It should recite --is planar with a strike side--.

Claim 11 (line 3) recites "longitudinal edges". It should recite --longitudinal sides--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 (line 5) recites "whereby the strike sides of both legs that are located at the same side of the corner angle piece are in one common plane". It is unclear as to what is meant by "located at the same side of the corner angle piece". It is unclear as to

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how perpendicular strike sides of a leg can be located in a common plane. Claims 9-12 depend from claim 2 and thus are likewise rejected.

Claim 8 (line 1) recites "wherein the bracing bars follow the support bars with the strike sides". It is unclear as to what is meant by "follow the support bars with the strike sides".

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris (US 4,032,242).

As to claim 1, Morris discloses a securing device capable of use with rear walls set in grooves of cabinet furniture, the securing device including a first support element **21** placed in an angle area between a rear wall **15** and grooved sidewall **13** and a second support element **22** placed between the rear wall and a grooved board **12**, whereby the first and second support elements each have contact sides at a right angle to one another and diagonal to the contact sides a through hole **24,25** capable of receiving a screw or set pin **26**, wherein the first and second support elements are integrated in one piece into two legs **21,22** of a corner angle piece, and wherein the legs are at a right angle to one another, and whereby one of the first and second support elements is formed at each of the legs (Figures 2-4).

As to claim 2, Morris discloses a securing device wherein the legs **21,22** of the corner angle piece including the first and second support elements **21,22** have support bars at a right angle to one another and including strike sides, wherein the strike sides comprise the contact sides of the support elements (Figure 3).

As to claim 3, Morris discloses a securing device wherein the corner angle piece has a crest area **30**, wherein the crest area has a flat region toward an outside area, and wherein the legs **21,22** are operatively connected to each other via an interim bar **30** at an angle with respect to the legs (Figure 3).

As to claim 4, Morris discloses a securing device wherein the legs **21,22** of the corner angle piece are of approximately the same length, and wherein the through holes **24,25** of the first and second support elements **21,22** are arranged at each of the legs at equal distances from the crest area **30** of the corner angle piece (Figure 3).

As to claim 5, Morris discloses a securing device wherein the through holes **24,25** of the support elements **21,22** are arranged at distal ends of the legs **21,22** of the corner angle piece (Figure 3).

As to claim 6, Morris discloses a securing device wherein the legs **21,22** in an inner area of the corner angle piece are connected to one another using one-piece attached bracing bars **35,38** (Figure 3).

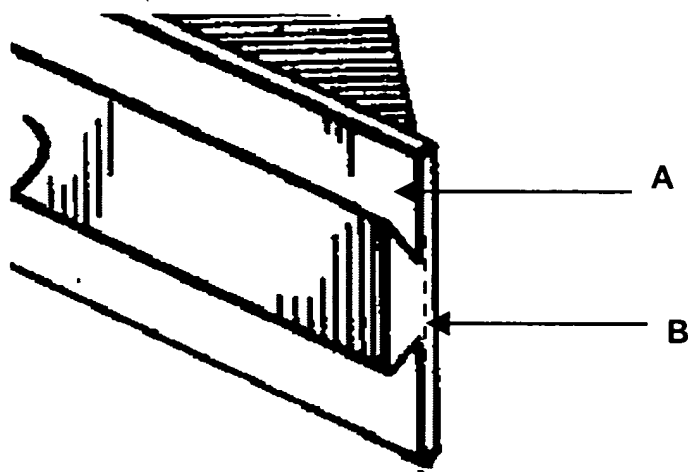
As to claim 7, Morris discloses a securing device wherein the bracing bars **35,38** of the corner angle piece have planar outer sides, and wherein the outer sides are planar with the strike sides of the legs **21,22** of the corner angle piece and are in one plane with the strike sides (Figure 3).

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As to claim 9, Morris discloses a securing device wherein an end region of the first and second support elements **21,22** is attached and protruding to an inner side the legs **21,22** the corner angle piece and having face side perpendicular to a diagonal plane of the inner corners between the support bars **35,38** of the legs and proximate an insertion opening of the respective through hole **2,25** (Figure 3).

7. Claims 1-7 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawrence et al. (US 4,432,590).

As to claim 1, Lawrence et al. disclose a securing device capable of use with rear walls set in grooves of cabinet furniture, the securing device including a first support element **A** (Figure 10 reprinted below with annotations) placed in an angle area between a rear wall **175** and grooved sidewall **160** and a second support element **A** placed between the rear wall and a grooved board **161**, whereby the first and second support elements each have contact sides at a right angle to one another and diagonal to the contact sides a through hole **55,56** capable of receiving a screw or set pin **50,51**, wherein the first and second support elements are integrated in one piece into two legs **A** of a corner angle piece, and wherein the legs are at a right angle to one another, and whereby one of the first and second support elements is formed at each of the legs (Figures 6, 7, 10-12 and 14).



As to claim 2, Lawrence et al. disclose a securing device wherein the legs **A** of the corner angle piece including the first and second support elements **A** have support bars at a right angle to one another and including strike sides, wherein the strike sides comprise the contact sides of the support elements (Figure 10).

As to claim 3, Lawrence et al. disclose a securing device wherein the corner angle piece has a crest area **48**, wherein the crest area has a flat region toward an outside area, and wherein the legs **A** are operatively connected to each other via an interim bar **48** at an angle with respect to the legs (Figure 14).

As to claim 4, Lawrence et al. disclose a securing device wherein the legs **A** of the corner angle piece are of approximately the same length, and wherein the through holes **55,56** of the first and second support elements **A** are arranged at each of the legs at equal distances from the crest area **48** of the corner angle piece (Figure 11).

As to claim 5, Lawrence et al. disclose a securing device wherein the through holes **55,56** of the support elements **A** are arranged at distal ends of the legs **A** of the corner angle piece (Figure 11).

As to claim 6, Lawrence et al. disclose a securing device wherein the legs **A** in an inner area of the corner angle piece are connected to one another using one-piece attached bracing bars **44** (Figure 14).

As to claim 7, Lawrence et al. disclose a securing device wherein the bracing bars **44** of the corner angle piece have planar outer sides, and wherein the outer sides are planar with the strike sides of the legs **A** of the corner angle piece and are in one plane with the strike sides (Figure 14).

As to claim 10, Lawrence et al. disclose a securing device including bars **31,32** protruding transversely from the legs **A**, wherein the bars have longitudinal sides **B**, and wherein one the bars is planar with a strike side of the legs of the corner angle piece located the same plane (Figure 10).

As to claim 11, Lawrence et al. disclose a securing device wherein the bars **31,32** are spring-like and taper off in a wedge shape toward their longitudinal sides **B** (Figure 10).

As to claim 12, Lawrence et al. disclose a securing device wherein the corner angle piece is a synthetic part. The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production." In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to securing devices:

Wood (US 6,481,177), Howell (US 6,511,251) and Rollin et al. (US 5,685,662) are cited for pertaining to devices comprising first and second support elements comprising through holes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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